

PATENT  
W&B Ref. No. : INF 2070-US  
Atty. Dkt. No. INFN/WB0041

### REMARKS

This is intended as a full and complete response to the Restriction Requirement dated March 9, 2005, having a shortened statutory period for response set to expire on April 9, 2005. Claims 7, 14 and 16 have been amended to correct typographical errors. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-16 stand restricted under 35 U.S.C. 121 as follows:

- Group I      Claims 1-10, drawn to "a dynamic memory cell", classified in class 365, subclass 149.
- Group II      Claims 11-16, drawn to "a DRAM circuit disposed on a substrate", classified in class 257, subclass 301.

The Examiner states that:

"The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the dynamic memory cell of claims 1-10 and can be made by another and materially different process such as a process that not require the use of a substrate, a trench capacitor, an insulation layer instead, etc."

Applicant provisionally elects Group I (claims 1-10) with traverse. There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent; and (B) There must be a serious burden on the examiner if restriction is required. (MPEP § 803). Applicant submits that the Examiner has not properly established or satisfied the criteria for a proper requirement for restriction.

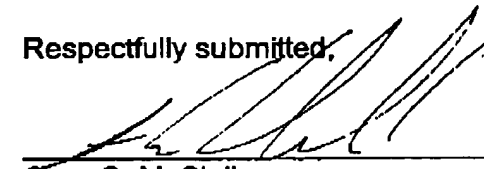
Applicant submits that the Examiner has incorrectly applied the criteria for distinguishing inventions that are related as a process of making and product made to the claims of the present invention. Furthermore, the Examiner has incorrectly interpreted the claims of Group II (claims 11-16), which are directed to "a DRAM circuit disposed on a substrate," as a process for making the "dynamic memory cell" claimed in the claims of Group I. Both groups of claims are apparatus-type claims. In fact, claims

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1-6 are directed to a dynamic memory cell while claims 7-10 and 11-16 are directed to DRAM circuits. None of the claims are process or method claims as indicated by the Examiner. Therefore, Applicant submits that the restriction requirement is improper and respectfully requests withdrawal of the restriction requirement.

Having addressed all issues set out in the Restriction Requirement, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



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